1973. No. 132 **[C]**

NURSES AND MIDWIVES

Midwives (Disciplinary) Rules Approval Order

ORDER, DATED 19TH APRIL 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 52 OF THE NURSES AND MIDWIVES ACT (NORTHERN IRELAND) 1970.

WHEREAS the Northern Ireland Council for Nurses and Midwives has, in exercise of its powers under Parts IV and V and section 52 of the Nurses and Midwives Act (Northern Ireland) 1970(a) made the Midwives (Disciplinary) Rules (Northern Ireland) 1973 and has submitted them to the Ministry of Health and Social Services (in this Order referred to as "the Ministry") for approval:

NOW, THEREFORE, the Ministry on behalf of the Secretary of State and in exercise of the powers conferred on it by section 52 of the Nurses and Midwives Act (Northern Ireland) 1970 and of every other power enabling it in that behalf, hereby makes the following Order:

1. This Order may be cited as the Midwives (Disciplinary) Rules (Northern Ireland) 1973 Approval Order (Northern Ireland) 1973.

2. The Ministry hereby approves the said Rules in the form set out in the Schedule.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 19th day of April 1973.

(L.S.) *F. A. Elliott,*
Assistant Secretary.

(a) 1970. c. 11 (N.I.).

SCHEDULE

The Northern Ireland Council for Nurses and Midwives, in exercise of the powers conferred on it by Parts IV and V and section 52 of the Nurses and Midwives Act (Northern Ireland) 1970 and of all other powers enabling it in that behalf, hereby makes the following Rules:—

1. These Rules may be cited as the Midwives (Disciplinary) Rules (Northern Ireland) 1973.

2. Section C of the Midwives Rules (Northern Ireland) 1965 is hereby revoked.

3. In these Rules—

"the Act" means the Nurses and Midwives Act (Northern Ireland) 1970;

"the Roll" means the Roll of Midwives for Northern Ireland maintained by the Council under the Act;

"midwife" means a woman whose name is on the Roll of Midwives;

"the prescribed form" means such form as may be prescribed by the Council from time to time;

"the Investigating Committee" means the Committee appointed by the Council under section 46(1)(*b*) of the Act;

"complainant" means a body or person by whom a complaint has been made to the Council alleging that a midwife has been convicted of an offence or has been guilty of misconduct or of malpractice or of disobeying the rules laid down under the Act or alleging that the entry of a name in the Roll has been procured by fraud and who, where the case has been referred by the Investigating Committee in their discretion under Rule 6 of these Rules to the Disciplinary Committee, wishes to be a party to the proceedings;

"Solicitor" means the person who for the time being is the Solicitor to the Council or his deputy appointed by the Council;

"Director" means the person for the time being appointed to act as Director of Nursing and Midwifery Education, and includes any person duly authorised to act and acting on her behalf.

PART I

Rules defining the conditions under which Midwives may be suspended from practice

1. In carrying out the provisions of section 38(*c*) of the Act, it shall be the duty of the health authority to suspend a midwife from practice when necessary for the purpose of preventing the spread of infection, whether she has contravened any of the rules laid down by the Council or not, and in the exercise of that duty the health authority shall, after communicating their decision to the midwife concerned, at once report any suspension in writing (with the grounds thereof) to the Council.

2. The period of suspension under the foregoing Rule shall not be longer than is required by the midwife for the purpose of disinfecting herself, her clothing and her appliances, to the satisfaction of the health authority; and if the period is expected to or does in fact last for more than twenty-four hours, the authority shall forthwith communicate to the Council the special circumstances in which the prolonged suspension arises and the matter shall be subject to revision by the Council. When the health authority is satisfied that the midwife has been properly disinfected it should communicate with her to that effect and any verbal communication should be confirmed in writing with the date when it was so satisfied.

3. The Disciplinary Committee may—

(*a*) suspend from practice for such period as they think fit in lieu of removing her name from the Roll any midwife, who after investigation by the Disciplinary Committee in the manner prescribed by the Rules, has been found guilty of disobeying the Rules or of other misconduct;

(*b*) suspend from practice until the case has been decided by the Disciplinary Committee and, in the case of an appeal, until the appeal has been decided, any midwife whose conduct is under investigation by the Disciplinary Committee on a charge of disobeying the Rules or of other misconduct.

4. The health authority may suspend from practice, until the case has been decided, any midwife against whom a prosecution has been taken for a contravention of any of the provisions of Parts III or IV of the Act or who has been reported to the Council for negligence or misconduct. The health authority shall in such cases communicate their decision in writing to the midwife concerned, and forthwith report the suspension (with the grounds thereof) to the Council.

PART II

Removal of a name from the Roll

5.—(1) When it is reported to, or otherwise brought to the attention of, the Council that a midwife has been convicted of a crime or has been guilty of malpractice or of disobeying the Rules laid down under the Act, or of misconduct, or where a question arises whether an entry in the Roll was procured by fraud, the Director shall, when investigation by the health authority is required, forthwith communicate such report or information to the health authority of the area within which the midwife resides, or of that in which the crime, malpractice, act of disobedience of the Rules, or misconduct is alleged to have been committed. She shall also ask such authority to investigate the matter and to report whether or not in their opinion, a prima facie case of malpractice, negligence, or misconduct has been established against the midwife. The Director shall also invite the accused person (hereinafter called "the respondent") to furnish any written statement or explanation which she may desire to offer.

(2) Any report by a Health authority shall as soon as may be after its receipt by the Director be laid with all other information relating to the case to which it refers before the Investigating Committee.

(3) The Investigating Committee shall consist of the Vice-Chairman of the Council, who shall be Chairman and four other members of the Council, none of whom shall be members of the Disciplinary Committee; a quorum shall be three.

The Council shall delegate to the Investigating Committee the responsibility for deciding whether any matter shall be referred to the Disciplinary Committee.

(4) If investigation by the appropriate health authority is not required or if within a reasonable time after the making of a request to the appropriate health authority for investigation of any case no report has been received from the health authority, the Director, after making such further inquiries relative to the case as she thinks necessary, shall invite the respondent to furnish any written statement or explanation which she may desire to offer and shall lay the case before the Investigating Committee.

6.—(1) The Investigating Committee shall consider the case and may at any stage of the case take the advice of the Solicitor, and may instruct him to obtain proofs of evidence in support of the allegations against the respondent, and may in such cases as they think fit, decline to proceed with the matter.

(2) Where the Investigating Committee decide that a prima facie case is made out for the removal of the respondent's name from the Roll and the cancelling of her certificate, they shall refer the case to the Disciplinary Committee and may direct the Solicitor to take all necessary steps for verifying the evidence to be submitted to the Committee and for obtaining the necessary documents and the attendance of witnesses.

(3) The Disciplinary Committee shall consist of nine members of the Council, two thirds of whom shall be nurses and midwives. The Council shall appoint one of the members of the Committee to be Chairman. A quorum shall be six.

The Disciplinary Committee shall meet at such times and in such places as the Committee may determine.

Members of the Disciplinary Committee shall be given not less than three clear days written notice of each meeting of the Committee.

7.—(1) Where a case has been referred by the Investigating Committee to the Disciplinary Committee under the provisions of Rule 6 of this Section the Director shall send to the respondent a notice of inquiry in writing in the form set out in Form A of the Appendix to these Rules, specifying the nature and particulars of the charge against her, and informing her of the time and place of the meeting of the Disciplinary Committee at which the case will be heard. The notice shall further require the respondent to send or deliver to the Director, her register of cases, records of sending for medical help and of pulse and temperature, including those relating to the said charge, seven days before the hearing of the case. Such notice shall be sent by registered letter or by letter sent by recorded delivery service to the permanent address of the respondent as contained in the Roll; or if the Director has reason to believe that that address is not her present address, then to any later address which may be known to the Director, and shall be posted so as to allow at least twenty-one days to elapse between the day on which the notice is posted and the date fixed for the hearing. A copy of the notice of inquiry shall also be sent to the appropriate health authority.

(2) Where any question whether any entry in the Roll was procured by fraud has been referred by the Investigating Committee to the Disciplinary Committee, the Director, in addition to sending a notice of inquiry in writing to the respondent and to the appropriate health authority, shall also send a copy of the notice to any person who is alleged to have been a party to the fraud alleged and to such others persons (if any) as the Chairman of the Disciplinary Committee may direct. Any such person may, with the leave of the Chairman, appear at the inquiry as an additional party thereto.

(3) In any case in which there is a complainant, the Director shall send him a copy of the notice of inquiry and a copy of these Rules.

(4) The Director shall send to the appropriate health authority, and upon application by any party to the inquiry shall send to that party, copies of any statutory declaration, explanation, admission or other similar statement or communication sent to the Council by any party to the inquiry.

(5) Any party to the inquiry may appear in person or be represented at the hearing by a friend, or by counsel or solicitor, provided that a complainant may be represented only by counsel or solicitor, or in the case of an incorporated or unincorporated body being a complainant, by a member or officer duly appointed by them for the purpose. If the respondent intends to be represented by counsel or solicitor, not less than seven days' notice of such intention shall be given to the Director.

(6) The appropriate health authority shall be given the opportunity to attend and assist the Director at the hearing of the case, unless the case is one to which the provisions of sub-rule (7) of this Rule applies.

(7) When in the course of proceedings for the removal of a name from the Roll charges are made against a health authority or any of its officers, to which an answer may be reasonably expected, such an authority or officer shall in each case be given the opportunity to appear and be heard at the hearing of the case.

8. The Disciplinary Committee may postpone the hearing of a case or may refer the matter to the Investigating Committee for further consideration or may amend a notice of inquiry or may decide that an inquiry shall not be held.

9. At the hearing of the case, the Solicitor, Director or other person appointed by the Disciplinary Committee for the purpose shall first state to the Disciplinary Committee the facts of the case and the charge alleged against the respondent, and shall then submit to the Disciplinary Committee the evidence in support of the charge and the respondent or her representative shall be entitled to cross-examine any witness appearing against her on matters relevant to the charge.

10. A certificate of a competent officer of the Court in which the proceedings took place that the respondent was convicted of a crime shall be sufficient proof of the conviction, unless the respondent proves that the conviction was subsequently quashed on appeal.

11. When the statement of the charge and the evidence in support thereof are concluded, the respondent or her representative shall be invited by the Chairman to address the Disciplinary Committee and to tender evidence in answer to the charge. The Solicitor, Director or other person appointed by

the Council for the purpose shall be entitled to cross-examine any witness tendered in answer to the charge and to reply upon the whole case, after the respondent or her representative has addressed the Disciplinary Committee a second time at the conclusion of the respondent's defence.

12. Where the Disciplinary Committee have found that a charge against a respondent has been proved the Solicitor, Director or other person appointed by the Disciplinary Committee for the purpose shall be invited by the Chairman to address the Disciplinary Committee and to adduce evidence as to circumstances leading up to the charge and as to the previous history of the respondent. The Chairman shall then invite the respondent or her representative to address the Disciplinary Committee by way of mitigation and evidence on behalf of the respondent may be adduced as aforesaid, and as to character.

13. If the respondent does not attend, either personally or by a representative, the Disciplinary Committee may proceed to hear and determine the case in her absence.

14. Upon the conclusion of the case the Disciplinary Committee shall after consideration of the relevant evidence, pronounce their decision either forthwith or in writing at a later date or at a subsequent meeting.

15. If the Disciplinary Committee find the charges against the respondent to be proved either in whole or in part, and the offence cannot, in their opinion, be adequately dealt with by censure or caution, or suspension the Disciplinary Committee may direct the Director to remove the name of the respondent from the Roll and to cancel her certificate.

16. Whether or not the Disciplinary Committee proceed to determine that an entry in the Roll has been proved to their satisfaction to have been procured by fraud, they may, if they are satisfied that the entry has been incorrectly made, cause the entry to be amended.

17. The Disciplinary Committee may also at their discretion postpone sentence pending the receipt by them of a report or reports from the health authority concerned in the case on the conduct and method of practice of the respondent since the date of her conviction by the Disciplinary Committee and may have regard to the subject matter of such reports in deciding as to what the sentence shall be. In the event of such postponement of sentence as aforesaid the Disciplinary Committee shall, before directing the Director to remove the name of the respondent from the Roll and to cancel her certificate forward a copy of the said report or reports to the accused person and ask for her observations on the matter contained therein.

18. A decision of the Disciplinary Committee to remove the respondent's name from the Roll shall be communicated to her by registered letter or by letter sent by recorded delivery service by the Director, and shall require the respondent within fourteen days from the date on which notice is served on her to surrender to the Council her certificate for cancellation, and, if she fails to do so, she shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £10.

PART III

Restoration to the Roll of a name removed

19. Application for restoration to the Roll shall be made in writing addressed to the Director, and signed by the applicant, stating the grounds on which the application is made.

20. The application must be accompanied by a statutory declaration made by the applicant, setting forth the facts of the case and stating that she is the person originally enrolled. The Declaration shall be in the form given in Form B of the appendix.

21. The statements in the application and statutory declaration must also be supported by the certificate of the health authority of the area in which the applicant was resident at the time when her name was removed from the Roll (and if at the time of her application she be resident in another area then by the certificate of the health authority of such area also) and also by the certificates of at least two persons, being either Justices of the Peace, Ministers of Religion, or Registered Medical Practitioners who were and are well acquainted with the applicant before and since the removal of her name. Those certificates must each of them testify to the applicant's identity and present good character, and they shall be in the form set out in Form C of the Appendix. On receipt of such application, statutory declaration, and certificates, the Director shall forward them to the Investigating Committee, who may require the applicant to produce such other evidence as it may deem necessary. When all requisite information has been produced, the Investigating Committee shall refer the matter to the Disciplinary Committee.

22.—(1) Unless the Disciplinary Committee decide to restore the name of an applicant without a hearing, they shall afford to her, if she wishes, an opportunity of being heard by them and of adducing evidence. The applicant shall be entitled to be represented at such hearing by a friend, or by counsel or a solicitor.

(2) If upon consideration of the application and of the evidence furnished in support of it, the Disciplinary Committee are satisfied that the name of the applicant should be restored to the Roll, they may direct the Director accordingly, and upon payment by the applicant of a fee to be determined by the Council, with the approval of the Ministry of Health and Social Services, her name shall be restored to the Roll and a new certificate shall be issued to her.

23. Any determination by the Disciplinary Committee shall, subject to Rule 19, be final and conclusive and shall not require confirmation or endorsement by the Council, so however that any such determination shall be notified to the Council and shall be of no effect until so notified.

APPENDIX

FORM A

NORTHERN IRELAND COUNCIL FOR NURSES AND MIDWIVES
NURSES AND MIDWIVES ACT (NORTHERN IRELAND) 1970

To .....

of .....

TAKE NOTICE that the charge [*or* charges] against you, particulars of which are set forth below, *has/have been brought to the notice of the Council, and that the Disciplinary Committee of the Council propose to investigate such charge(s) at a meeting to be held at the offices of the Council,

at ..... *a.m. / p.m. on ..... the ..... 19.....

and to determine whether your name should be removed from the Roll.

(*Here insert particulars of charge(s)—separate charges should be set out under separate counts*).

YOU ARE HEREBY REQUIRED to attend before the Disciplinary Committee at the time and place mentioned above and to answer such charge[s].

You should send or deliver to the Director, seven days before the date fixed for the hearing, your register of cases, records of sending for medical help and of pulse and temperature, including those relating to the said charge [*or* charges].

You are entitled to be represented at the hearing before the Disciplinary Committee by a friend or by counsel or a solicitor but if you propose to employ counsel or a solicitor you must give written notice to the Director at the address mentioned above at least seven days before the hearing.

You should bring with you all papers and documents in your possession relevant to the matter and arrange for the attendance of any persons whose evidence you wish to lay before the Disciplinary Committee.

A copy of the Midwives (Disciplinary) Rules (Northern Ireland) 1973 is enclosed.

.....
Director of Nursing and Midwifery Education

.....
Date

**Strike out words not applicable*

FORM B

Statutory Declaration by Applicant for restoration of name to the Midwives Roll

(1) I, (a).....

(*a*) Insert full name

(*b*) Insert address

of (b).....

do solemnly and sincerely declare that the following are the facts of my case, and the grounds on which I seek the restoration of my name to the Midwives Roll:—

(*c*) Date of certificate granted by the Joint Nursing and Midwives Council for Northern Ireland or the Northern Ireland Council for Nurses and Midwives

(*d*) Qualification appearing on certificate

(*e*) Date of inquiry

(2) On the (c)..... day of..... 19..... my name was duly enrolled by virtue of the following qualifications, namely (d).....

(3) At the inquiry held on the (e)..... day of..... 19..... the Disciplinary Committee of the Council directed my name to be removed from the Midwives Roll and my certificate to be cancelled.

(4) The offence for which the said Disciplinary Committee of the Council directed the removal of my name and the cancelling of my certificate was

(*f*) Insert charge on which name was removed

(f).....

.....

.....

(5) Since the removal of my name from the Roll I have been

(*g*) Insert place of residence

residing at (g).....

(*h*) Insert occupation

and my occupation has been (h).....

.....

(6) It is my intention if my name is restored to the Roll to

(*i*) Insert proposed place of practice

practice as a midwife at (i).....

.....

(*k*) All the facts and reasons in support of the application should be stated shortly and clearly

(7) The grounds of my application are (k).....

.....

.....

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act 1835.

(Signed) .....

Declared at .....

on the ..... day of ..... 19..... Before me ..... A Commissioner of Oaths, or Justice of the Peace.

FORM C

Certificate in Support of application for restoration of name to the Midwives Roll

I, ...

of .....
certify as follows:—

(a) State whether Justice of the Peace, Minister of Religion, or Registered Medical Practitioner, and give particulars of position

(1) I am (a) .....
.....

(2) I have been and am well acquainted with
.....
both before and since her name was removed from the Midwives Roll.

(3) The said .....
is the person whose name formerly stood in the Midwives Roll with the following address and qualifications:

(b) Insert address and qualifications formerly given in Midwives Roll

(b) Address .....
.....
Qualification .....

(4) The said .....
is now trustworthy, sober, and of good character.

(5) I have read paragraphs (4), (5) and (6) of the application (FORM B), and the statements therein contained are, to the best of my knowledge, information, and belief, true.

Signature .....

Address .....

Position and authority for signing .....
.....

Date .....

To: The Northern Ireland Council for Nurses and Midwives

The Seal of the Northern Ireland Council for Nurses and Midwives was affixed hereto this 5th day of October 1972.

T. C. C. Adam,
Chairman.

W. B. Baxter,
Secretary.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

The Rules approved by this Order supersede Section C of the Midwives Rules (Northern Ireland) 1965 and lay down the procedure relating to disciplinary proceedings against midwives.